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8 IN THE UNITED STATES DISTRICT COURT  
9  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA, )  
12 ) No. CR 06-00713 SBA  
Plaintiff, )  
13 ) STIPULATION AND  
v. ) ORDER FOR CONTINUANCE OF  
14 ) CHANGE OF PLEA AND  
15 ) SENTENCING DATE  
KIRBY WARD BLACKMON, )  
16 )  
Defendant. )

17 IT IS HEREBY STIPULATED, by and between the parties to this action, that the change of  
18 plea and sentencing date in this case, currently scheduled for October 16, 2007, at 10:00 a.m. before  
19 Honorable Judge Sandra Brown Armstrong, may be continued to November 6, 2007, at 10:00 a.m.  
20 for change of plea and sentencing. The reason for the request is that final presentence report has  
21 been released and the guideline calculations of the probation officer are inconsistent with those set  
22 out in the plea agreement. Defense counsel is conducting additional investigation regarding the facts  
23 which would support the defense's argument that the disputed guideline does not apply. Counsel is  
24 also doing investigation in support of arguments that even if the guideline applies, the Court should  
25  
26

1 sentence Mr. Blackmon consistent with the Rule 11(c)(1)(C) agreement under the factors set out in  
 2 18 U.S.C. §3553. Defense counsel needs additional time to obtain the records and file its sentencing  
 3 memorandum for the Court's review. Finally, Mr. Blackmon was just admitted to the hospital in  
 4 Hayward for complications related to his diabetes. He is expected to be in the hospital until early  
 5 next week. United States Probation Officer Christina Carrubba has been notified of the proposed  
 6 continuance and has no objection. She is available on November 6, 2007 should the Court continue  
 7 the matter to that date.  
 8

9 The parties stipulate that the time from October 16, 2007, to November 6, 2007, should be  
 10 excluded in accordance with the provisions of the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(8)(A) and  
 11 (h)(4) for adequate preparation of counsel so that counsel can continue its investigation relating to  
 12 both the disputed guideline provisions and to various 18 U.S.C. §3553 factors. The Court also could  
 13 exclude time under 18 U.S.C. §3161(h)(1)(I) as it continues to consider the proposed plea agreement  
 14 to be entered into by the defendant and the attorney for the Government.  
 15

16 /S/  
 17 DATED: 10/11/07  
 18 \_\_\_\_\_  
 19 JOYCE LEAVITT  
 20 Assistant Federal Public Defender

21 /S/  
 22 DATED: 10/11/07  
 23 \_\_\_\_\_  
 24 H.H. (SHASHI) KEWELRAMANI  
 25 Assistant United States Attorney  
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#### SIGNATURE ATTESTATION

27 I hereby attest that I have on file all holograph signatures for any signatures indicated by  
 28 a "conformed" signature (/S/) within this e-filed document.

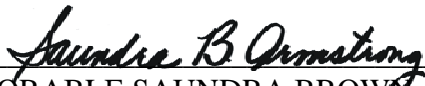
**ORDER**

GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that the change of plea and sentencing date in this case, currently scheduled for October 16, 2007, at 10:00 a.m. before Honorable Judge Saundra Brown Armstrong, may be continued to Tuesday, November 6, 2007, at 10:00 a.m. for change of plea and sentencing.

IT IS FURTHER ORDERED that the time from October 16, 2007, to November 6, 2007, should be excluded in accordance with the provisions of the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(8)(A), (h)(4) and (h)(1)(I) for adequate preparation of counsel, because counsel is conducting investigation relating to the disputed guideline provisions as well as to the applicable 18 U.S.C. §3553 sentencing factors. In addition, the Court is continuing to consider the proposed plea agreement to be entered into by the defendant and the attorney for the Government. The Court finds that the ends of justice served by the granting of the continuance outweigh the best interests of the public and the defendant in a speedy and public trial and the failure to grant the requested continuance would unreasonably deny the defendant's counsel the reasonable time necessary for effective preparation, taking into account due diligence.

SO ORDERED.

DATED: 10/12/07

  
HONORABLE SAUNDRA BROWN ARMSTRONG  
United States District Judge